

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION CIRCUIT COURT

AVC NO. 07-006

IN RE: DIRECT MARKETING
ASSOCIATION, INC.

Respondent.

FILED

(32) MAR 27 2007

Charles E. White
CLERK OF THE MARION CIRCUIT COURT

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Matt J. Light, and the Respondent, Direct Marketing Association Inc., enter into an Assurance of Voluntary Compliance ("Assurance"), pursuant to Indiana Code §23-7-8-1 et seq.

Any violation of the terms of this Assurance constitutes prima facie evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

1. Respondent, Direct Marketing Association Inc. is a New Jersey corporation with a principal place of business at 1358 Hooper Avenue # 309, Toms River, New Jersey 08753.
2. Respondent's owner and principal officer is Antonio D. Belloni.
3. Respondent registered with the Consumer Protection Division, Office of the Attorney General as a professional solicitor on December 28, 2005 and solicits donations from persons in Indiana on behalf of charitable organizations.
4. The Consumer Protection Division of the Office of the Attorney General ("Division") has jurisdiction to investigate the matters hereinafter described, pursuant to the authority of Ind. Code §4-6-9-4 and Ind. Code §23-7-8-8.
5. The terms of this Assurance apply to and are binding upon Respondent, its

employees, agents, representatives, successors, and assigns.

6. Any term used in this Assurance that is explicitly defined by Ind. Code §23-7-8-1 or Ind. Code § 24-5-0.5-2 has the meanings set forth by those statutes.

7. Respondent will comply with all the requirements of the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-1 et seq., including, but not limited to, the following provisions:

- a. Before acting as a professional fundraiser consultant or professional solicitor in the State of Indiana on behalf of any charitable organization, Respondent will register with the Indiana Attorney General's Consumer Protection Division.
- b. Respondent will notify the Division in writing within 180 days of any change in the information contained in Respondent's registration.
- c. Before July 2nd of each year, Respondent will file an update to its registration and will make a payment of fifty dollars (\$50.00) to the Division.
- d. Before acting as a professional solicitor or otherwise soliciting in the state of Indiana on behalf of any charitable organization, Respondent will enter into a written contract with the charitable organization for which it is soliciting, and will file the contract with the Division. All such contracts will include each of the provisions required by Ind. Code § 23-7-8-2(d).
- e. Before beginning a solicitation campaign in which Indiana residents will be solicited, Respondent will file a solicitation notice with the Division. The notice will include each of the items required by Ind. Code § 23-7-8-2(e).
- f. Not later than ninety (90) days after a solicitation campaign has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation

campaign lasting more than one (1) year, Respondent will file with the Division a financial report containing the following information concerning the campaign:

- i. the total gross amount of money raised by Respondent and the charitable organization from donors;

- ii. the total amount of money paid to or retained by Respondent;

- iii. the total amount of money, excluding the amount identified in paragraph 7.e.ii above, paid by the charitable organization as expenses as part of the solicitation campaign; and,

- iv. the total amount of money received by the charitable organization after deducting the amounts identified in paragraphs 7.e.ii and 7.e.iii above.

g. Respondent will keep accurate fiscal records regarding its activities in Indiana, and will retain such records for at least three (3) years after the end of the period of registration to which they relate.

h. Respondent will not:

- i. use the fact of registration as an endorsement by the State;

- ii. misrepresent that Respondent is an officer or employee of a public safety agency;

- iii. use the name "police", "law enforcement", "trooper", "rescue squad", "firemen", or "firefighter" in its solicitations unless a bona fide police, law enforcement, rescue squad, or fire department authorizes its use in writing;

- iv. misrepresent to anyone that the contribution will be used for a charitable purpose if it has reason to believe the contribution will not be used for a charitable purpose;

v. misrepresent to anyone that another person endorses the solicitation unless that person has consented in writing to the use of the person's name for the purpose of endorsing the solicitation;

vi. misrepresent to anyone that the contribution is solicited on behalf of anyone other than the charitable organization that authorized the solicitation; or

vii. collect or attempt to collect a contribution in person or by means of a courier unless:

a. the solicitation is made in person and the collection or attempt to collect is made at the time of the solicitation; or

b. the contributor has agreed to purchase goods or items in connection with the solicitation, and the collection or attempt to collect is made at the time of delivery of the goods or items.

8. Respondent, in soliciting and/or contracting with consumers, agrees to comply in all aspects with Indiana Administrative Code, 11 IAC 3-1 et seq.

9. Respondent, in soliciting and/or contracting with consumers, agrees to comply in all aspects with the Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq.

10. Upon execution of this Assurance, Respondent will pay a total of five hundred dollars (\$500.00) to the Office of the Indiana Attorney General as costs of the Division's investigation of this matter.

11. Upon execution of this Assurance, Respondent will pay one thousand dollars (\$1,000.00) for registration renewal pursuant to Ind. Code § 23-7-8-4 and 11 IAC 3-3-5.

12. In the event that Respondent violates Ind. Code §§ 23-7-8-2(d), 23-7-8-2(f), or 23-7-8-4(c) on or after the date this Assurance is approved by the Circuit Court of Marion County,

Respondent shall pay an agreed-upon stipulated penalty of one hundred dollars (\$100.00) for each month or part of a month that Respondent fails to submit the required materials and payments to the Division within the time period prescribed the statutory provisions.

13. The stipulated penalty provision referenced in paragraph twelve (12) shall be effective for a period of five (5) years from the date this Assurance is approved by the Circuit Court of Marion County.

14. Respondent agrees to make full payment of the stipulated penalty to the Office of the Indiana Attorney General within thirty (30) days after being advised in writing by the Division of any violations of Indiana Code §§ 23-7-8-2(d), 23-7-8-2(f), or 23-7-8-4(c). Any such payments will be deposited by the Division in the Consumer Fees and Settlements Fund.

15. Respondent will not represent that the Office of the Indiana Attorney General approves or endorses its past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

16. Respondent will fully cooperate with the Office of the Indiana Attorney General in the resolution of any future written complaints the Consumer Protection Division receives.

17. The Office of the Indiana Attorney General will file this Assurance with the Circuit Court of Marion County. The Court's approval of this Assurance will not act as a bar to any private right of action.

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DATED this 20 day of March, 2007.

STATE OF INDIANA

RESPONDENT

STEVE CARTER
Attorney General of Indiana

DIRECT MARKETING ASSOCIATION,
INC.

by: Matt J. Light
Matt J. Light
Deputy Attorney General
Attorney No. 25680-53

by: [Signature]
Printed: President
Title: Antonio D. Bellar

Office of the Attorney General
Indiana Government Center South
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Indianapolis, IN 46204
(317) 232-4774

1358 Hooper Avenue
309
Toms River, NJ 08753

APPROVED this 20 day of March, 2007.

[Signature]
Judge, Marion County Circuit Court